IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.11.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE S. TAMILVANAN

WRIT PETITION NO.36086 OF 2002

1.A.S. Jahangir
2.M. Chandrasekar
3.C. Mohan .. Petitioners

vs.

1.The Chennai Metropolitan
Development Authority
rep. By its Member Secretary
Thalamuthu Natarajan Maaligai
Gandhi Irwin Road
Egmore, Chennai 600 008.

2.D. Ramadoss
3.M.S. Kalyanaraman
4.K. Sarada
(R.3 & R.4 impleaded as respondents
as per the order dt.19.04.2006
made in WPMP.No.43666/05) .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus calling for the records from the 1st respondent relating to the order No. Reg/C6/06335/2001 dt. 5.6.2002 and quash the said order dt. 5.6.2002 and direct the respondents to demolish the unauthorised 4th floor put up by the 2nd respondent at Door No. 12, IInd Main Road, East C.I.T. Nagar, Nandanam, Chennai- 600 035.

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For petitioners :Mr. S. Ayyathurai

For respondents: Mr. J. Ravindran for R.1

Mr. R. Muthukumarasamy,Sr.counsel
for Mr. V. Subbarayan for R.2

Mr. Narayanasamy for R.3 and R.4

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ORDER

(Order of the Court was made by P. Sathasivam,J.)

Aggrieved by the proceedings of the first respondent dated 05.06.2002 regularising the construction made by the second respondent, the petitioners have filed the above writ petition to quash the same and direct the respondents to demolish the unauthorised 4th floor put up by the second respondent at Door No.12, Second Main Road, East C.I.T. Nagar, Nandanam, Chennai 35.

2. Heard the learned counsel for the petitioners as well as the respondents.

3. As said earlier, the petitioners are challenging the regularisation order / proceedings at the instance of the Government and the Chennai Metropolitan Development Authority (in short "CMDA"). Mr. R. Muthukumarasamy, learned senior counsel appearing for the second respondent by pointing out that the disputed construction was completed before the cut-off date viz., 28.02.1999 and in the light of the decision of this Court in the case Consumer Action Group vs. The State of Tamil Nadu (2006 (4) CTC 481), it is for the Monitoring committee to consider the grievance of the petitioners. Mr. S. Ayyathurai, learned counsel appearing for the petitioners by pointing out the letter dated 31.01.2002 of CMDA submitted that the reference made therein show that the construction was in progress even in the month of October, 2001 and according to him the first scheme approved by the First Bench is not applicable to the building in question. For this, the learned senior counsel appearing for the second respondent has brought to our notice that similar notices viz., stop work notice and demolition notice were issued by CMDA even before the cut-off date, which amply show that the building (4th floor) was completed before 28.02.1999. We are not not expressing our views with regard to the same in view of the direction of the First Bench that the issue is to be considered by the Monitoring Committee.

4. In the light of the assertion of the learned senior counsel appearing for the second respondent, we are of the view that it is for the Monitoring Committee to consider the allegations made by the petitioners. On this ground, without going into the merits of the case, direction is issued to the CMDA to refer the dispute to the Monitoring Committee, after intimation to the parties. The Monitoring Committee is directed to consider and dispose of the same, after affording opportunity to both parties.

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The writ petition is disposed of accordingly. No costs.

kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Member Secretary
Chennai Metropolitan
Development Authority
Thalamuthu Natarajan Maaligai
Gandhi Irwin Road
Egmore, Chennai 600 008.

ONE CC TO MR.J. RAVINDRAN, ADVOCATE SR 58976

ONE CC TO MR.V. SUBBARAYAN, ADVOCATE SR 58123

ONE CC TO MR.N. NARAYANA SWAMY, ADVOCATE SR 58506

ONE CC TO MR.S. AYYATHURAI, ADVOCATE SR 58357

Order in
W.P.No.36086 of 2002

MDR(CO)

BP/6.12

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